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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/737,225	12/16/2003	N.R. Gandhi	5334-CIP-CON	6331

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EXAMINER

WEIER, ANTHONY J

ART UNIT PAPER NUMBER

1761

DATE MAILED: 07/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/737,225

Applicant(s)

GANDHI ET AL.

Examiner

Anthony Weier

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. Claims 1, 3, and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 02076550 taken together with Hsieh et al.

JP 02076550 discloses a process of preparing a soy composition wherein pulverized soybeans are treated with acid (e.g. citric acid) and water (either with the acid or additionally alone in a later step) wherein it is expected that the amount of water added (approximately 2.5:1 with the soy) would provide a material with liquid consistency.

JP 02076550 is silent regarding the dimensions of the pulverized soybeans, the step of treating the liquid soybean mixture to a pressure greater than 2000 psi, and the step of heating the liquid. Hsieh et al teaches preparation of a soy milk composition including the steps of crushing the soybean, adding heated water, and eventually treating the created slurry to a pressure greater than 2000 psi. Hsieh et al further teaches the water added is heated for several purposes including its use to dissociate protein globules to permit improved emulsification (col. 3, lines 10-13). It would have been obvious to one having ordinary skill in the art at the time of the invention to have incorporated the addition of water which has been heated in the process of JP 02076550 for such reason. In addition, Hsieh et al teaches the advantage of using powdered soybean to increase the rate of heat transfer and reduce the processing time required for conventional heat soaking of whole beans (col. 2, lines 14-16). Though JP 02076550 already discloses the treatment of pulverized soybeans, Hsieh et al provides

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a reason for doing same and provides suggestion via such teaching as to why one would vary the degree of pulverization. More specifically, as for the particle size, it would naturally flow from the teachings of Hsieh et al that size reduction of the soybeans relates to heat transfer/processing time as a result effective variable, and it would have been further obvious to have arrived at the particular soybean particle size as called for in the instant claims depending on, for example, the degree of heat transfer and processing time desired. And although JP 02076550 is silent regarding a homogenization step, such is further taught, for example, in Hsieh et al (e.g. col. 2, lines 40-43; col. 3, lines 37-50). In general, it would have been further obvious to have incorporated such homogenization step to provide for a more homogenous product as a matter of preference. As for homogenizing at the high pressure called for in the instant claims, Hsieh et al teaches that homogenization of 1000 psi to 8000 psi will provide "satisfactory" homogenization of the soybean slurry. It would have been further obvious to have employed homogenization at, for example, 8000 psi in the process of JP 02076550 to provide a "satisfactory" homogenization as taught by Hsieh et al.

JP 02076550 is further silent regarding the use of the acid in a salt form and in a particular salt form. However, it is not seen where same would provide for a patentable distinction. It would have been further obvious to have added the salt form of said acid as an art recognized alternative and to have employed the particular salt as called for in claim 3 as a matter of preference depending on, for example, the cost or availability of said salts.

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2. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hsieh et al taken together with JP 02076550 and Drachenberg et al.

The claims stand rejected for the reasons set forth in Paragraph 6 of the last Office Action (mailed 12/13/04).

3. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP 02076550 taken together with Hsieh et al and any one of Crank et al, Jolivet et al, and Wagner et al.

The claims stand rejected for the reasons set forth in Paragraph 6 of the last Office Action (mailed 12/13/04).

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP 02076550 taken together with JP Hsieh et al and Koga et al.

The claims stand rejected for the reasons set forth in Paragraph 7 of the last Office Action (mailed 12/13/04).

***Terminal Disclaimer***

5. The Terminal Disclaimer filed 4/12/05 has been received and found to be proper. As a result, the double patenting rejections of the last Office Action have been withdrawn.

***Response to Arguments***

6. Applicant's arguments filed 4/12/05 have been fully considered but they are not persuasive. Applicants arguments have been addressed in view of the rejection as set

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forth above.

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. More specifically, Applicant's amendment broadens the acid addition to occur with respect to ground soybean particulate which may or may not be dry. The original claims called for adding said acid specifically to the *dried* soybean particulate which would limit the soybean from having acid added concurrently or after the addition of water when same is no longer dry. Accordingly, **THIS ACTION IS MADE FINAL**.

See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

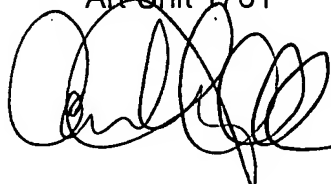
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Weier whose telephone number is 571-272-1409. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Anthony Weier  
Primary Examiner  
Art Unit 1761

  
7/13/05

Anthony Weier  
July 13, 2005